

## **Item SPR06-19 Response Form**

**Title:** Written Objections to Evidence in Summary Judgment Motions (amend Cal. Rules of Court, rule 345)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **if modified**
- ☐ **Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

☐ **Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

Please **write** or **fax** or **respond using the Internet** to:

**Address:** Ms. Romunda Price,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102  
**Fax:** (415) 865-7664      **Attention:** Romunda Price  
**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Friday, June 23, 2006
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council,  
the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.  
All comments will become part of the public record of the council's action.*

Invitations to Comment SPR06-19

Title	Written Objections to Evidence in Summary Judgment Motions (amend Cal. Rules of Court, rule 345)
Summary	Rule 345 of the California Rules of Court would be amended to require that written objections to evidence in support of or opposition to a motion for summary judgment be in a separate document and in one of the two formats specified in the rule. The objections would be required to be accompanied by a proposed order in the same format as the objections. Also, the time for service and filing of objections would be changed.
Source	Civil and Small Claims Advisory Committee Hon. Elihu M. Berle, Chair
Staff	Patrick O'Donnell, Committee Counsel, 415-865-7665 patrick.o'donnell@jud.ca.gov
Discussion	<p>Written objections to evidence in support of and in opposition to motions for summary judgment are often made in an unclear and confusing manner. Sometimes the objections are combined with the separate statement required by rule 342. Also, the deadline for serving and filing objections is very close to the hearing date under current rule 345.</p> <p>The proposed amendments to rule 345 would improve written objections in several respects. First, the rule would be amended to change the time for serving and filing objections from 4:30 p.m. on the third court day before the hearing to the same time that the objecting party's opposition or reply papers are served and filed. (See amended rule 345(a).) This will give both courts and the parties more time to carefully consider all objections.</p> <p>Second, the amended rule would require that all written objections be presented in a separate document and would not permit them to be included in the separate statement. (See amended rule 345(b).) Comments are invited on whether, though evidentiary objections themselves would not be permitted to be included in the separate statement, the separate statement should be permitted or required to include references identifying any applicable objections contained in the separate document stating the objections.</p> <p>Third, the rule would state and present two alternative formats for</p>

presenting written objections. (See amended rule 345(c).) All objections must be in one of the two authorized formats.

Finally, the amended rule would require that a proposed order be submitted with the written objections. (See amended rule 345(d).) The proposed order must use one of the two formats specified for written objections.

Comments are invited on each of these proposed changes to rule 345. The amendments to the rule are intended to improve the process for litigants to make written objections on motions for summary judgment. They should also make it easier for trial courts to consider and rule on objections and for appellate courts to review the rulings on objections.

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Attachment

## Proposal

Rule 345 of the California Rules of Court would be amended, effective January 1, 2007, to read:

### **Rule 345. ~~Form of~~ Written objections to evidence**

**(a) [Time for service and filing of objections]** All written objections to evidence in support of or in opposition to a motion for summary judgment ~~must state the page and line number of the document to which objection is made, and state the grounds of objection with the same specificity as a motion to strike evidence made at trial.~~ Written objections must be served and filed and served no later than 4:30 p.m. on the third court day preceding the hearing at the same time as the objecting party's opposition or reply papers are served and filed.

**(b) [Format of objections]** All written objections to evidence must be served and filed separately from the other papers in support of or opposition to the motion. These objections may not be included in the separate statement. The written objections must:

- (1) Identify the name of the document in which the specific material objected to is located;
- (2) State the exhibit, title, page, and line number of the material objected to;
- (3) Quote or set forth the objectionable statement or material;
- (4) State the grounds for each objection to that statement or material; and
- (5) Provide a place for the court to indicate its ruling.

Written objections to evidence must follow one of the following two formats:

(First Format):

#### **Objections to Jackson Declaration**

##### **Objection Number 1**

“Johnson told me that no widgets were ever received.” (Jackson declaration, page 3, lines 7–8.)

**Grounds for Objection 1:** Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).

**Court's Ruling on Objection 1:**

Sustained: \_\_\_\_\_

Overruled: \_\_\_\_\_

**Objection Number 2**

"A lot of people find widgets to be very useful." (Jackson declaration, page 17, line 5.)

**Grounds for Objection 2: Irrelevant (Evid. Code, §§ 210, 350–351).**

**Court's Ruling on Objection 2:**

Sustained: \_\_\_\_\_

Overruled: \_\_\_\_\_

(Second Format):

**Objections to Jackson Declaration**

<u>Material Objected to:</u>	<u>Grounds for Objection:</u>	<u>Ruling on the Objection</u>
1. Jackson declaration, page 3, lines 7–8: "Johnson told me that no widgets were ever received."	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled
2. Jackson declaration, page 17, line 5: "A lot of people find widgets to be very useful."	Irrelevant (Evid. Code, §§ 210, 350–351).	<input type="checkbox"/> Sustained <input type="checkbox"/> Overruled

**(c) Proposed order**

A party submitting written objections must submit with the objections a proposed order in one of the formats specified in (b), including a place for the court to indicate on the order whether it has sustained or overruled the objection.